

REMARKS

Claims 1—8 are pending in this application, with Claim 1 being independent. Claim 8 has been amended. The Applicants respectfully request entry of new Claim 12, which finds support in, *inter alia*, Claim 8, as filed. The Applicants hereby affirm the telephonic election to prosecute group I, Claims 1-8 in view of the Examiner’s restriction requirement. Accordingly, Claim 9 has been cancelled without prejudice or disclaimer. Favorable reconsideration of the present claims is respectfully requested.

The Examiner had rejected Claim 8 for indefiniteness under 35 U.S.C. 112, second paragraph, due to the phrase, “at least 10%, preferably at least 15%”. By way of the present amendment, “preferably at least 15%” has been deleted from Claim 8. The phrase has become the subject of newly added Claim 12. Reconsideration and withdrawal of the rejection is respectfully requested.

The Examiner had requested an abstract on a separate sheet pursuant to 37 C.F.R. 1.72(b). The Examiner is respectfully reminded the present application entered the national stage under 35 U.S.C. 371 and was published with an abstract printed on the cover page of its pamphlet. And, as the Examiner points out in the Official Action paragraph bridging pages 6 and 7, “the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application” Similar language is presented in MPEP Section 1893.03(e), February 2003 revision. However, in an effort to expedite prosecution, the Applicants enclose the abstract on a separate sheet.

The Examiner had rejected Claims 1—8 under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Patent No. 4,180,592, to Buckley et al. (hereinafter, “Buckley”), in

view of U.S. Patent No. 4,293,576, to Sentance (hereinafter, "Sentance"). Applicants respectfully traverse that rejection.

Prior to discussing the merits of the rejection, Applicants believe it would be helpful to describe the advantages of the present application. The present application is directed to, *inter alia*, a method to manufacture a blood chunk by heating a blood fraction, defined by the specification on page 1 as comprising about 14—40% protein and about 35—45% red blood cells, adding hydrogen peroxide to the blood fraction, and compressing the resultant to form a blood chunk with laminar structure. It has been surprisingly found that when the defined blood fraction is exposed to hydrogen peroxide, a foam reaction product is formed. Compression of this foam unexpectedly results in a textured solid mass with a laminar structure similar to cooked meat. Treatment of whole blood in this manner does not result in such a product.

Buckley does not disclose treatment of the hemoglobin fraction of blood, or the formation of a chunk having a laminar structure. In Buckley's Example 1, compression of the decolorized material formed from raw blood merely drains liquid from the product so the amount of residual hydrogen peroxide in the liquid may be checked. The product does not have a laminar structure; rather, the product is stated to have "the appearance of minced meat" (Buckley, column 4, lines 43—44). When a hemoglobin fraction according to the present invention is heated and treated with hydrogen peroxide, a foam reaction product unexpectedly results. It has surprisingly been discovered that compression of this foam forms a textured solid mass with a laminar structure similar to that of cooked meat. No such product is formed when whole blood is similarly treated.

Sentance does not remedy the shortcomings of Buckley. While Sentance at column 3, lines 20—22, discloses the use of "appropriately proportioned composites of whole

blood/haemoglobin/plasma" to prepare a food product rather than only whole blood as disclosed in Buckley, Sentance states, at column 2, lines 65—68, "haemoglobin however, is not employed alone". Also, at column 3, lines 9—10, Sentance states the preferred proportions "to give a high-level simulation of authentic meat" are "0—40% haemoglobin and 60—100% plasma", with an 85—100% proportion of plasma being especially preferred. Sentance, therefore, actually teaches away from the present invention. Had a skilled artisan treated the animal blood phases disclosed by Sentance according to the methods disclosed by Buckley, a chunk having a laminar structure would not have been formed. The combination of Buckley and Sentance, therefore, cannot render the present invention obvious.

Even if a skilled artisan had thought to heat a hemoglobin fraction according to the present invention and treat it with hydrogen peroxide, the artisan would not have been motivated to compress the resulting foam. As stated on page 1, lines 24—27, of the present specification, when the disclosed blood fraction is heated and treated with hydrogen peroxide, solid foam reaction product results. A person of ordinary skill in the art would expect compression of this reaction product to damage the foam structure and would, therefore, not compress it. The cited documents contain no indication that compression of the foam can provide products with a laminar structure. Rather, formation of a blood chunk with laminar structure by compression of this unexpected foam was surprising and only fortuitously discovered. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the obviousness rejection.

CONCLUSION

In view of the foregoing amendment and remarks, the Applicants respectfully request reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address below.

Respectfully submitted,


Raymond R. Mandra
Attorney for Applicants
Registration No. 34,382

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200
409899v1